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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,205	05/25/2001	Shea Chen	004578.1123	4344

7590 08/11/2003

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[REDACTED] EXAMINER

LUEBKE, RENEE S

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2833

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/866,205	CHEN & PILLANS & EHMKE & YAO
Examiner	Art Unit	
Renee S. Luebke	2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 July 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,4,6-11,14-16,18-21 and 25-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 10,20 and 25-36 is/are allowed.

6) Claim(s) 1,2,4,6-9,11,15,16,18 and 19 is/are rejected.

7) Claim(s) 14,21,37 and 38 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

1. Applicant's request for reconsideration of the final rejection is persuasive. Although the examiner does not entirely agree with applicant's arguments, a new reference has been found. This new reference and the following rejection render moot applicant's arguments.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 6, 7, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Oelsch. This apparatus comprises a switch with a base section 1, 2, an electrically conductive part 5 on the base section, and a membrane 3. The membrane has ends (to the right of 8 and to the left of 7) supported at locations on the base, an electrically conductive portion 6 between the ends, first and second U-shaped sections 7, 8, and outer portions that extend outwardly from one of the sections (see fig. 1). The sections serve as resilient structure (as required in order to perform their required function) *capable* of yieldably varying in size as claimed.

4. Claims 2, 8, 15, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oelsch in view of Randall, et al. In regard to claims 2 and 15, the similar switch of Randall includes a dielectric layer and is operated

by an applied voltage. This actuating means allows for operation where physical pressing is not feasible or desirable. It would have been obvious to operate the switch of Oelsch in this manner for the same reason.

In regard to claim 8, the first and second portions of Randall extend toward the base section. This prevents the sections from obstructing downward movement of the membrane. For this reason, it would have been obvious to reverse the direction of the portions found in the membrane of Oelsch as taught by Randall.

5. Claims 10, 20 and 25-36 are allowed.

Claims 14, 21, 37 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to claims 10, 20, 37 and 38 and 20 the prior art fails to show or teach a device of this type where the membrane sections engage the base section prior to the conductive part.

In regard to claims 14 and 21, the prior art fails to show or teach, on a switch of this type, the use of two voltages for the purposes claimed.

6. **Any response to this action may be mailed to:**

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

**or faxed to:**

(703) 872-9318 or 308-7722 or 308-7724  
(informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

**Hand-delivered responses** should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)  
2201 South Clark Place, Arlington, Virginia.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.



Renee S. Luebke  
Primary Patent Examiner  
August 4, 2002